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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,276	07/25/2003	Chris P. Lickiss	P05888US0	7594

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MCKEE, VOORHEES & SEASE, P.L.C.  
801 GRAND AVENUE  
SUITE 3200  
DES MOINES, IA 50309-2721

EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/627,276

Applicant(s)

LICKISS ET AL.

Examiner

Stephen Gravini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Oath/Declaration***

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:  
Non-initialed and/or non-dated alterations have been made to the oath or declaration. Specifically the fifth named inventor has non-initialed alterations in the declaration. See 37 CFR 1.52(c).

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 102***

Claims 1-2, 7, and 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Dhaemers (US 5,546,678). Dhaemers is considered to disclose the claimed combination dryer comprising:

- a housing **10**;
- a tumble dryer **119** mounted in the housing, which implies a working area within the housing;
- a cabinet dryer **11** built into the housing;
- a tumbler door **18** or **19** for providing access to the tumble dryer which implies an access door to the working area;
- a cabinet door **19** or **18** for providing access to the cabinet dryer;
- a control panel **72** on the housing to control the operation of the tumbler and cabinet dryers; and

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a seal **110** on the cabinet door sealingly engaging the control panel when the cabinet door is closed. Dhaemers is also considered to disclose the claimed upright surface **124** and back panel **14**.

***Claim Rejections - 35 USC § 103***

Claims 3-4 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dhaemers. Dhaemers is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed bulb-type seal or French style doors. It would have been an obvious matter of design choice to claim a bulb-type seal or French style doors, since those claimed embodiments are not discussed to have any patentable priority over the seals or doors found in the prior art. Furthermore the claimed bulb-type seal or French style doors are merely shape preferences that are not considered to distinguish the claimed invention over the prior art cited in this application.

Claims 5-6, 8-13, and 17-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dhaemers in view of Didlick et al. (US 6,279,357). Dhaemers is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed inner surface with a lip to direct condensation away from the control panel. Didlick, another dryer, is considered to disclose an inner surface with a lip to direct condensation away from the control panel at column 3 lines 10-64. It would have been obvious to one skilled in the art to combine the inner surface with a lip to direct condensation away from the control panel as found in Didlick with the teachings of primary reference, Dhaemers to provide a moisture protection barrier for a

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control panel by placing a lip seal on a cabinet barrier. Furthermore, Dhaemers in view of Didlick is considered to disclose the claimed invention, except for the claimed bulb-type seal or French style doors. It would have been an obvious matter of design choice to claim a bulb-type seal or French style doors, since those claimed embodiments are not discussed to have any patentable priority over the seals or doors found in the prior art. Furthermore the claimed bulb-type seal or French style doors are merely shape preferences that are not considered to distinguish the claimed invention over the prior art cited in this application.

### ***Double Patenting***

Claims 1-25 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of copending Application No. 10/406,814. Although the conflicting claims are not identical, they are not patentably distinct from each other because the copending application recites shelves such that the present application could be construed to imply that shelves are an obvious variation to the presently claimed cabinet dryer.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Response to Arguments***

Applicant's arguments filed September 13, 2004 have been fully considered but they are not persuasive.

*anticipatory rejection*

Applicants argue that the anticipatory rejection should be withdrawn because primary reference Dhaemers discloses a non-simultaneous cabinet dryer and tumble dryer and that the preamble of the claimed invention is not met by Dhaemers. Applicants further argue that the primary reference disclosed damper or gate does not anticipate the functionally and structurally claimed seal, that the intended use of the claimed invention is not anticipated by the primary reference, and that depending rejected claims are allowable based on the arguments of allowability. None of these arguments overcome the anticipatory rejection. Under current Office practice, claims are given their broadest reasonable interpretation in light of the prior art. In this application, the preamble recites a combination tumble and cabinet clothes dryer. The title of Dhaemers discloses an armoire, which anticipates the claimed cabinet, and the last sentence of the abstract discloses a rotatable tumble dryer, which anticipates the claimed tumble dryer. The claimed combination anticipated by the disclosure of Dhaemers. Dhaemers is both a cabinet dryer and tumble dryer, both at the same time, because the claimed invention is not recited such that the primary reference does not functionally anticipate the claimed invention, contrary to applicants arguments. With respect to the claimed seal location and function, applicants recite a seal on the cabinet door sealingly engaging a control panel on the housing when the door is closed. The context of the claimed invention and primary reference disclosure both discuss a seal, damper, or gate interchangeably to prevent air flow from passing a structure of each respective dryer barrier. In the primary reference the seal is on the cabinet door because it is located on top of the adjacent front control panel disclosure. The recitation

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"on" is given its broadest reasonable interpretation in light of the prior art. More specifically, on is interpreted to be above a recited structure. In this case, the damper or gate (seal) is on the cabinet door because it is above (or on) the cabinet doors which are adjacently connected to the front control panel above (or on) the those doors.

Furthermore, the primary reference discloses air flows throughout the dryer in column 7 lines 40+ and column 9 lines 55+. It is implicitly taught that the doors provide a barrier to air flow such that articles to be dried will be sealed by the cabinet doors as claimed.

Finally, intended use and claim dependency are considered mere assertions of patentability and do not distinguish the claimed invention over the prior art either structurally or functionally.

*obviousness rejection*

Applicants argue that the obviousness rejection should be withdrawn because secondary reference Didlick discloses a door not met by Didlick. The argument is based on the claim recitation of a door having an inner surface with a lip to direct condensation away from a control panel. This recitation is broadly and reasonably construed to represent a structural surface with an intended use to redirect moisture flow, based on the specification discussion thereof. The secondary reference discloses raised and depressed regions forming recesses for water trickling down the dryer structure. To those skilled in the art, these regions and recesses form a lip which allow a channel flow of moisture or condensate. This disclosure can be reasonably used to direct condensation away from a control panel, as claimed. Furthermore, applicants argue that primary reference Dhaemers does not disclose the claimed lip. However

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column 11 line 8, expressly discloses a lip, but it is the teaching of secondary reference Didlick in view of Dhaemers that shows that it would be obvious to teach the claimed invention.

*double patenting*

Applicants argue that the provisional double patenting rejection should be withdrawn because certain claim terms should be given special meaning without distinguishing those meanings in the specification or discussing those different meanings from the prior art. Both the present application and the copending application claim substantially the same subject matter, such that the present application would be an obvious variation to the copending application by reciting shelves. The Office is not concluding that the door seal or door lip is an obvious variation of the copending claimed shelves, but rather the shelves are an obvious variation of the presently claimed invention.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira S. Lazarus can be reached on 571 272 4877. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

smg  
November 30, 2004

